



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,673	05/09/2006	Amr Ali Al-Hossary		3883

7590 02/04/2009
Ali Mokhtar Al Hossary
12 El- Morsy Street
ard Ecl-Etr
Al Sananeyyah Domietta post code, 34713
EGYPT

EXAMINER

ARCHIE, NINA

ART UNIT	PAPER NUMBER
----------	--------------

1645

MAIL DATE	DELIVERY MODE
-----------	---------------

02/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/578,673

Applicant(s)

AL-HOSSARY, AMR ALI

Examiner

Nina A. Archie

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/10/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office is responsive to Applicant's amendment and response filed 11-10-08. Claims 1-9 have been cancelled claims. Claims 10-18 are new claims. Claims 10-18 are under examination.

Objections/Rejections Withdrawn

2. In view of the Applicant's amendment and remark following objections are withdrawn.
- a) Objection to claims 1 recites the phrase "IV" which is not specifically defined in the specification is withdrawn in light of cancellation of the claim.
 - b) Objection to claims 4-9 under 37 CFR 1.75(c) as being in improper form because the claims are dependent from a multiple dependent claim is withdrawn in light of cancellation of the claim.
 - c) Rejection of claim 3 under 35 U.S.C. 112, second paragraph, is withdrawn in light of cancellation of the claims.
 - d) Rejection of claims 1 and 3 under 35 U.S.C. 102(e) is withdrawn in light of cancellation of the claims.
 - e) Rejection of claim 1 and 2 are rejected under 35 U.S.C. 103(a) is withdrawn in light of cancellation of the claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 10, 12-16, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 10, the claims are confusing because they recite the indefinite article "The" that does not attempt to limit the filter to a particular filter as presented in their respective claims. Amendment of the claims to change "The " to "A" in claim 10 and would obviate this issue.

As to claims 12-16, and 18 dependent claims recites phrases, wherein the Filter is left in the vein to trap the myoglobin molecules until the filter is saturated, and then the filter is removed (claim 12); wherein the procedure of introducing the filter through the internal jugular vein can be carried out in the same accident location, (i.e. there is no need to transport the victim) (claim 13); of which the process of introducing & removing is a percutaneous procedure (claim 14); where the ease of its way of introduction & retrieval is not more difficult than introducing a central venous cannula, which is currently a routine procedure in such cases (claims 15); of which the functionality depends on trapping myoglobin from the bloodstream before they cause their harmful effect (claim 16); wherein the time limit for leaving & removing the filter is just sufficient for the antibodies to get bound to the myoglobin. This time by all possible means too little to allow for the development of anaphylaxis or thrombosis (claim 18); said recitations does not narrow the scope of the claim as drawn to a filter. Therefore the claim is rejected as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim Rejection - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cardone et al. US Patent 5,573,957 Date November 12, 1996.

Claims 10-18 are drawn to the new subject is about an in vivo, intravenous, myoglobin-trapping filter, base on antimyoglobin antibodies coat, that traps myoglobin from inside venous blood vessels, able to be introduced to the venous circulation percutaneously, through the internal jugular vein (or any other suitable vein), in case rhabdomyolysis of acute etiologies (e.g. acute limb ischemia, neuroleptic malignant syndrome, or traumas).

Cordone et al teach a myoglobin-trapping filter, base on antimyoglobin antibodies coat (see column 4 lines 1-25 and column 6 lines 45-55, column 9 lines 1-20).

As to claim limitations independent claim 10 and all dependent claim 11-18 recites phrases, new subject is about an in vivo, intravenous, that traps myoglobin from inside venous blood vessels, able to be introduced to the venous circulation percutaneously, through the internal jugular vein (or any other suitable vein), in case rhabdomyolysis of acute etiologies (e.g. acute limb ischemia, neuroleptic malignant syndrome, or traumas) (claim 10); wherein the filter is left in the vein to trap the myoglobin molecules until the filter is saturated, and then the filter is removed (claim 12); wherein the procedure of introducing the filter through the internal jugular vein can be carried out in the same accident location, (i.e. there is no need to transport the victim) (claim 13); of which the process of introducing & removing is a percutaneous procedure (claim 14); where the ease of its way of introduction & retrieval is not more difficult than introducing a central venous cannula, which is currently a routine procedure in such cases (claims 15); of which the functionality depends on trapping myoglobin from the bloodstream before they cause their harmful effect (claim 16); wherein the time limit for leaving & removing the filter is just sufficient for the antibodies to get bound to the myoglobin. This time by all possible means too little to allow for the development of anaphylaxis or thrombosis (claim 18); said recitations are considered an intended use and thus is given no patentable weight on the composition. Therefore the claims are drawn to a filter.

Status of the Claims

5. Claims 10-18 are rejected and under examination.
Claims 1-9 are cancelled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nina A. Archie whose telephone number is 571-272-9938. The examiner can normally be reached on Monday-Friday 8:30-5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Robert Mondesi can be reached on 571-272-0956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nina Archie

Examiner

Art Unit 1645

/Robert B Mondesi/

Supervisory Patent Examiner, Art Unit 1645

Application/Control Number: 10/578,673
Art Unit: 1645

Page 6